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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/300,856      04/28/99      BROWN      S      RYA-129/DIV

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EXAMINER

ASTORINO, M

ART UNIT

PAPER NUMBER

3736

DATE MAILED:

*9*  
07/18/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/300,856

Applicant(s)

Examiner

ASTORINO

Group Art Unit

3736

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 5-1-00.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 111; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-2 and 4-12 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-2 and 4-12 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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### DETAILED ACTION

1. The examiner acknowledges the amendment filed 5-1-00, which includes the cancellation of claim 7. In the previous communication the examiner mistakenly cited the rejection based on DeVito ('065) as a 35 USC 103(a) rejection. The correction based on the DeVito ('065) reference is actually a 35 USC 102(e) rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-2 and 4-12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by DeVito ('065).

DeVito discloses a system for communicating custom information to an individual including messages and queries, comprising a remote interface located away from individuals residence to communicate information to an individual, a server connected to remote device generating a script program, a remotely programmable apparatus in a residence networked to said server via a communication network, a modem for receiving said script program from said server, memory device for storing said script program, user interface configured for conveying the information and for receiving input from the individual, and processor device for executing said

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script program, said processor device connected to said communication device and to said memory device, and a and measurement device providing at least one physiological parameter including blood pressure (columns 2-5 and 12-18).

### *Response to Arguments*

4. Applicant's arguments filed 5-1-00 have been fully considered but they are not persuasive. The applicant submitted that although DeVito appears to disclose components of b-d of claim 1, however fails to disclose a remote interface for specifying information for the individual, wherein the server being coupled to the remote interface over a communications network generates the script program according to the specified information for the individual. The examiner disagrees with the applicant. First DeVito ('065) discloses a server (column 16, lines 26-40) coupled to a remote interface (60), and using specific information for the individual (column 14, lines 39-51).

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Astorino whose telephone number is (703) 306-9067.



M. Astorino

July 17, 2000



CARY O'CONNOR  
SUPERVISORY PATENT EXAMINER  
GROUP 3700